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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,387	04/11/2002	Moshe Brody	4075/OK306	3272

7590 11/21/2006

Patent Department  
Macrovision Corporation  
2830 De La Cruze Boulevard  
Santa Clara, CA 95050

EXAMINER
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DAVIS, ZACHARY A

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/069,387	Applicant(s) BRODY ET AL.	
	Examiner Zachary A. Davis	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 September 2006 has been entered.
2. By this submission, Claims 1, 5-9, 12, and 13 have been amended. Claim 11 has been canceled. No new claims have been added. Claims 1-9, 12, and 13 are currently pending in the present application.

### ***Response to Arguments***

3. Applicant's arguments filed 18 September 2006 have been fully considered but they are not persuasive.

Regarding the rejection of Claims 1-9, 12, and 13 under 35 U.S.C. 102(e) as anticipated by Siquin et al, US Patent 6425098, and with particular reference to independent Claims 1 and 7, Applicant argues that "Siquin does not teach how to override error correction" and that Siquin also does not disclose explicitly or inherently

“the limitation of ***altering data symbols in the codewords associated with the erroneous symbols***” (see page 6 of the present response, emphasis in original).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claims (noting that the noted limitation of “how to override error correction” is contrasted with “disabling the error correction” as recited in Claim 1, and further noting that neither “overriding” or “disabling” is explicitly recited in Claim 7). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Further, the Examiner believes that Siquin does, in fact, disclose altering data symbols in codewords associated with erroneous symbols, as recited in Claim 1. In particular, the Examiner notes that Siquin discloses that data symbols within codewords are altered (see column 9, line 46-column 10, line 5) and that additional data symbols are altered to disable the error correction of the erroneous symbols (see column 11, lines 17-33, where there is no indication that the erroneous symbols are intentionally erroneous, and the error correcting codes, or CIRC, are **re-calculated**, i.e. altered, as though the erroneous values were correct, thereby disabling any attempt to correct the intentional errors to their original values).

Therefore, for the reasons detailed above, the Examiner maintains the rejection as set forth below.

***Claim Objections***

4. The objections to Claims 7 and 11 are withdrawn in light of the amendments to Claim 7 and the cancellation of Claim 11.
5. The Examiner notes in general that care should be taken to maintain the distinction in the claims between "erroneous", "altered", and "overwritten" symbols.

***Claim Rejections - 35 USC § 112***

6. Although some of the issues of indefiniteness under 35 U.S.C. 112, second paragraph, have been overcome by the amendments to the claims, the amendments also introduce new issues of indefiniteness. Therefore, the rejection of Claims 1-9, 12, and 13 under 35 U.S.C. 112, second paragraph, is NOT withdrawn, and the claims REMAIN REJECTED as set forth below.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-9, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said data symbols" in line 6. It is not clear whether this is intended to refer back to the data symbols of lines 2-3, or the data symbols of line

5. The claim also recites the limitation "the error-correction codewords associated with

said erroneous symbols” in lines 7-8; there is insufficient antecedent basis for this limitation in the claim. Further, it is not clear whether the limitation “a plurality of data symbols” in line 8 is intended to refer to the same plurality of data symbols recited in lines 2-3, or to a different plurality of data symbols. This renders the claim indefinite.

Claims 5 and 6 each recite the limitation “said plurality of data symbols” in line 4 of each claim. If the plurality of data symbols recited in line 8 of Claim 1 is intended to be distinct from the plurality of data symbols recited in lines 2-3 of Claim 1, then it is not clear to which plurality of data symbols the limitation in Claims 5 and 6 is intended to refer.

Claim 12 recites the limitation “the error-correction codeword associated with said erroneous symbols”. However, there are plural “error correction-codewords associated with said erroneous symbols” recited in lines 7-8 of Claim 1, and it is therefore not clear to which of the plural codewords the limitation is intended to refer.

Claim 7 recites the limitation “the error-correction codewords associated with the altered data symbol” in line 5. There is insufficient antecedent basis for this limitation in the claim, which renders the claim indefinite. Further, the Examiner notes that the scope of Claim 7 is not fully commensurate with the scope of Claim 1; in particular, the Examiner notes that it appears that what is referred to as an “overwritten” symbol in Claim 7 (line 6) appears to correspond to the “altered” symbol in Claim 1 (line 8), and, conversely, what is referred to as an “altered” symbol in Claim 7 (line 4) appears to correspond to the “overwritten” symbol in Claim 1 (line 6).

Claims 8 and 9 recite the limitation "said altered data symbols" in line 2 of each claim. Although there is reference to a singular altered data symbol in line 4 of Claim 7, there is insufficient antecedent basis in the claims for the limitation of plural altered data symbols.

Claims not specifically referred to above are rejected due to their dependence on a rejected base claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-9, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Sinquin et al, US Patent 6425098.

In reference to Claim 1, Sinquin discloses a method for producing a copy-protected CD including selecting a data sample, locating the symbols representing the sample (column 9, lines 11-14), overwriting the symbol with erroneous symbols (column 9, lines 46-48), and disabling error correction of the erroneous symbols by altering at

least one of a plurality of symbols in codewords associated with the erroneous symbols (column 10, lines 60-column 11, line 33; see also column 3, line 58-column 4, line 9).

In reference to Claim 2, Sinquin further discloses that the sample is a concealable audio sample corresponding to linear interpolation of previous and subsequent samples (see column 9, lines 16-46; column 9, line 46-column 10, line 5).

In reference to Claim 3, Sinquin further discloses that the erroneous symbols are superimposed (column 8, lines 45-53; column 9, lines 46-48).

In reference to Claim 4, Sinquin further discloses selecting at least one sample from a sector in a group of sectors (column 9, lines 11-14).

In reference to Claims 5, 6, and 12, Sinquin further discloses that disabling the error correction further includes overwriting data symbols with an arbitrary erroneous symbol or erasure (column 10, line 60-column 11, line 19).

Claims 7-9 and 13 are apparatus claims corresponding substantially to the methods of Claims 1, 5, 6, and 12, respectively, and are rejected by a similar rationale.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Newman, US Patent 7076660, discloses a method for copy protecting an optical disc that includes a pattern of uncorrectable errors.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*ZAD*  
zad

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SUPERVISORY PATENT EXAMINER